

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DANIEL POINTDUJOUR,

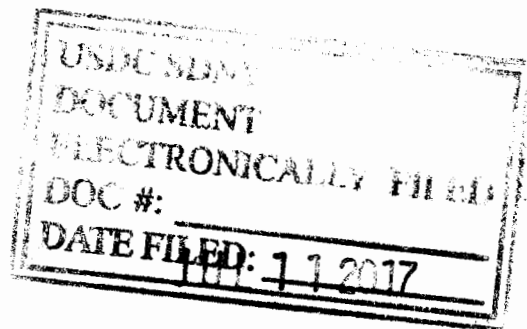
Plaintiff,

-against-

NYC BOARD/DEPARTMENT OF EDUCATION :
& LAWRENCE BECKER :

Defendants. :
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GEORGE B. DANIELS, United States District Judge:



ORDER

16 Civ. 7567 (GBD) (AJP)

Plaintiff Daniel Pointdujour, an employee of the Department of Education (“DOE”), filed this action against Defendants the New York City DOE and city employee Lawrence Becker, claiming that Defendants discriminated against him in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621–634 *et seq*; N.Y. Exec. Law §§ 290–297 *et seq*.; and N.Y.C. Admin. Code §§ 8-101–131 *et seq*., by terminating his employment. (Compl., ECF No. 1.)

This case was referred to Magistrate Judge Andrew J. Peck on October 19, 2016. (ECF No. 7.) Before this court is Magistrate Judge Peck’s February 28, 2017 Report and Recommendation (“Report,” ECF No. 10), recommending that this action be dismissed without prejudice for lack of service. *See* Fed. R. Civ. P. 4.

This Court may accept, reject, or modify, in whole or in part, the findings and recommendations set forth in the Report. *See* 28 U.S.C. § 636(b)(1)(C). When no objections to a report are made, the Court may adopt the report if “there is no clear error on the face of the record.” *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (citation omitted). Magistrate Judge Peck advised the parties that failure to file timely objections to the

Report would constitute a waiver of those objections on appeal. (Report, at 1.) Neither party filed objections to the Report.

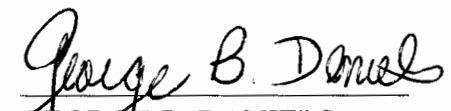
Having reviewed Magistrate Judge Peck's Report and Recommendation, this Court finds no clear error in the Report and adopts it in full. Plaintiff filed his Complaint on September 27, 2016 (ECF No. 1) and was ordered to serve Defendants with the Complaint within 90 days of October 19, 2016. (ECF No. 5.) Magistrate Judge Peck was lenient in allowing even more than 90 days to pass before issuing the February 10, 2017 Order for Plaintiff to show cause as to why this case should not be dismissed for failure of service. (ECF No. 9.) As of February 28, 2017, the date on which Magistrate Judge Peck issued the Report, Plaintiff had still not served any Defendant or responded to the order to show cause. (Report, at 1.) Therefore, this action is dismissed without prejudice for lack of service, pursuant to Rule 4 of the Federal Rules of Civil Procedure.

Dated: New York, New York

July __, 2017

JUL 11 2017

SO ORDERED.


GEORGE B. DANIELS
United States District Judge